

## **Assembly Bill No. 3045**

### **CHAPTER 835**

An act to amend Sections 13386, 14601.2, 14601.4, and 14601.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 2006. Filed with  
Secretary of State September 30, 2006.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 3045, Koretz. Vehicles: license suspension: license revocation: ignition interlock device.

(1) Existing law requires the Department of Motor Vehicles to certify or cause to be certified ignition interlock devices, for use as specified. Existing law makes it a crime to violate any provision of the Vehicle Code.

This bill, which may be known, and cited, as, "Adam's Law," would require the department to require that each certified ignition interlock device operate in the manner for which it was certified, prohibit a manufacturer from furnishing an installer, service center, technician, or consumer with technology or information that allows a device to be used in a manner that is contrary to the purpose for which it is certified, and prohibit an installer, service center, or technician from tampering with, changing, or altering the functionality of the device from its certified criteria.

Because this bill would create new crimes, this bill would impose a state-mandated local program.

(2) Existing law prohibits a person from driving a vehicle when his or her driver's license has been suspended or revoked for violating specified provisions relating to DUI. Existing law requires a court to require a person convicted of specified offenses to install a certified ignition interlock device on a vehicle that the person owns or operates.

This bill would prohibit the department from reinstating the privilege to operate a motor vehicle until the department receives specified proof that the certified ignition interlock device has been installed as ordered.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known, and may be cited, as, “Adam’s Law.”

SEC. 2. Section 13386 of the Vehicle Code is amended to read:

13386. (a) (1) The Department of Motor Vehicles shall certify or cause to be certified ignition interlock devices required by Article 5 (commencing with Section 23575) of Chapter 2 of Division 11.5 and publish a list of approved devices.

(2) (A) The Department of Motor Vehicles shall ensure that ignition interlock devices that have been certified according to the requirements of this section continue to meet certification requirements. The department may periodically require manufacturers to indicate in writing whether the devices continue to meet certification requirements.

(B) The department may use denial of certification, suspension or revocation of certification, or decertification of an ignition interlock device in another state as an indication that the certification requirements are not met, if either of the following apply:

(i) The denial of certification, suspension or revocation of certification, or decertification in another state constitutes a violation by the manufacturer of Article 2.55 (commencing with Section 125.00) of Chapter 1 of Division 1 of the Title 13 of the California Code of Regulations.

(ii) The denial of certification for an ignition interlock device in another state was due to a failure of an ignition interlock device to meet the standards adopted by the regulation set forth in clause (i), specifically Sections 1 and 2 of the model specification for breath alcohol ignition interlock devices, as published by notice in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992, on pages 11774 to 11787, inclusive.

(C) Failure to continue to meet certification requirements shall result in suspension or revocation of certification of ignition interlock devices.

(b) (1) A manufacturer shall not furnish an installer, service center, technician, or consumer with technology or information that allows a device to be used in a manner that is contrary to the purpose for which it is certified.

(2) Upon a violation of paragraph (1), the department shall suspend or revoke the certification of the ignition interlock device that is the subject of that violation.

(c) An installer, service center, or technician shall not tamper with, change, or alter the functionality of the device from its certified criteria.

(d) The department shall utilize information from an independent laboratory to certify ignition interlock devices on or off the premises of the manufacturer or manufacturer’s agent, in accordance with the guidelines. The cost of certification shall be borne by the manufacturers of ignition interlock devices. If the certification of a device is suspended or revoked, the manufacturer of the device shall be responsible for, and shall bear the

cost of, the removal of the device and the replacement of a certified device of the manufacturer or another manufacturer.

(e) No model of ignition interlock device shall be certified unless it meets the accuracy requirements and specifications provided in the guidelines adopted by the National Highway Traffic Safety Administration.

(f) All manufacturers of ignition interlock devices that meet the requirements of subdivision (e) and are certified in a manner approved by the Department of Motor Vehicles, who intend to market the devices in this state, first shall apply to the Department of Motor Vehicles on forms provided by that department. The application shall be accompanied by a fee in an amount not to exceed the amount necessary to cover the costs incurred by the department in carrying out this section.

(g) The department shall ensure that standard forms and procedures are developed for documenting decisions and compliance and communicating results to relevant agencies. These forms shall include all of the following:

(1) An “Option to Install,” to be sent by the Department of Motor Vehicles to repeat offenders along with the mandatory order of suspension or revocation. This shall include the alternatives available for early license reinstatement with the installation of an ignition interlock device and shall be accompanied by a toll-free telephone number for each manufacturer of a certified ignition interlock device. Information regarding approved installation locations shall be provided to drivers by manufacturers with ignition interlock devices that have been certified in accordance with this section.

(2) A “Verification of Installation” to be returned to the department by the reinstating offender upon application for reinstatement. Copies shall be provided for the manufacturer or the manufacturer’s agent.

(3) A “Notice of Noncompliance” and procedures to ensure continued use of the ignition interlock device during the restriction period and to ensure compliance with maintenance requirements. The maintenance period shall be standardized at 60 days to maximize monitoring checks for equipment tampering.

(h) Every manufacturer and manufacturer’s agent certified by the department to provide ignition interlock devices shall adopt fee schedules that provide for the payment of the costs of the device by applicants in amounts commensurate with the applicant’s ability to pay.

SEC. 3. Section 14601.2 of the Vehicle Code is amended to read:

14601.2. (a) No person shall drive a motor vehicle at any time when that person’s driving privilege is suspended or revoked for a conviction of a violation of Section 23152 or 23153 if the person so driving has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, no person shall drive a motor vehicle at any time when that person’s driving privilege is restricted, if the person so driving has knowledge of the restriction.

(c) Knowledge of suspension or revocation of the driving privilege shall be conclusively presumed if mailed notice has been given by the

department to the person pursuant to Section 13106. Knowledge of restriction of the driving privilege shall be presumed if notice has been given by the court to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) A person convicted of a violation of this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not less than 10 days or more than six months and by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (d) of Section 23550.5, in which case the person, in addition, shall be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.

(2) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5, by imprisonment in the county jail for not less than 30 days or more than one year and by a fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (d) of Section 23550.5, in which case the person, in addition, shall be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.

(e) If a person is convicted of a first offense under this section and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(f) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 30 days.

(g) If a person is convicted of a second or subsequent offense that results in a conviction of this section within seven years, but over five years, of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(h) Pursuant to Section 23575, the court shall require a person convicted of a violation of this section to install a certified ignition interlock device on a vehicle the person owns or operates. Upon receipt of the abstract of a conviction under this section, the department shall not reinstate the privilege to operate a motor vehicle until the department receives proof of either the "Verification of Installation" form as described in paragraph (2) of subdivision (g) of Section 13386 or the Judicial Council Form I.D. 100.

(i) Nothing in this section prohibits a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

(j) This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

SEC. 4. Section 14601.4 of the Vehicle Code is amended to read:

14601.4. (a) It is unlawful for a person, while driving a vehicle with a license suspended or revoked pursuant to Section 14601.2 to do an act forbidden by law or neglect a duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to a person other than the driver. In proving the person neglected a duty imposed by law in the driving of the vehicle, it is not necessary to prove that a specific section of this code was violated.

(b) A person convicted under this section shall be imprisoned in the county jail and shall not be released upon work release, community service, or other release program before the minimum period of imprisonment, prescribed in Section 14601.2, is served. If a person is convicted of that offense and is granted probation, the court shall require that the person convicted serve at least the minimum time of imprisonment, as specified in those sections, as a term or condition of probation.

(c) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it should be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to other requirements, to install a certified ignition interlock device on a vehicle that the person owns or operates for a period not to exceed three years.

(d) This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

(e) Upon receipt of the abstract of a conviction under this section, the department shall not reinstate the privilege to operate a motor vehicle until the department receives proof of either the "Verification of Installation" form as described in paragraph (2) of subdivision (g) of Section 13386 or the Judicial Council Form I.D. 100.

SEC. 5. Section 14601.5 of the Vehicle Code is amended to read:

14601.5. (a) A person may not drive a motor vehicle at any time when that person's driving privilege is suspended or revoked pursuant to Section

13353, 13353.1, or 13353.2 and that person has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, a person may not drive a motor vehicle at any time when that person's driving privilege is restricted pursuant to Section 13353.7 or 13353.8 and that person has knowledge of the restriction.

(c) Knowledge of suspension, revocation, or restriction of the driving privilege shall be conclusively presumed if notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) A person convicted of a violation of this section is punishable, as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

(2) If the offense occurred within five years of a prior offense that resulted in a conviction for a violation of this section or Section 14601, 14601.1, 14601.2, or 14601.3, by imprisonment in the county jail for not less than 10 days or more than one year, and by a fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000).

(e) In imposing the minimum fine required by subdivision (d), the court shall take into consideration the defendant's ability to pay the fine and may, in the interest of justice, and for reasons stated in the record, reduce the amount of that minimum fine to less than the amount otherwise imposed.

(f) This section does not prohibit a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle, that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (d) of Section 12500.

(g) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it would be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to other requirements, to install a certified ignition interlock device on a vehicle that the person owns or operates for a period not to exceed three years.

(h) This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

(i) Upon receipt of the abstract of a conviction under this section, the department shall not reinstate the privilege to operate a motor vehicle until

the department receives proof of either the “Verification of Installation” form as described in paragraph (2) of subdivision (g) of Section 13386 or the Judicial Council Form I.D. 100.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.